HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.820 of 2007

Between:

Ravada Appa Rao and others. … Appellants

And

District Collector,
Visakhapatnam and two others. … Respondents

:: J U D G M E N T ::

Counsel for the appellants : Sri Meherchand Nori

Counsel for the respondents : Government Pleader for Revenue

4th October, 2007

Per G.S. Singhvi, C.J.

This is an appeal for setting aside order dated 1-5-2007, vide which the learned Single Judge dismissed the writ petition filed by the appellants for restraining the respondents from forcibly dispossessing them from land comprised in Survey No.11/2 of Paradesipalem Village, Chinagadali Mandal, Visakhapatnam District.

In the writ affidavit filed by appellant No.1 - Ravada Appa Rao, it was averred that each of the petitioners was in possession of 15 cents of land in Survey No.11/2 and that earlier to them their respective fathers and ancestors were in possession and were paying tax for many years. Along with the writ petition, the appellants filed copies of Adangals and cist receipts to substantiate their assertion that they and

their ancestors have been in possession of the land for many years. Appellant No.1 also alleged that on 20-4-2007, the respondents tried to forcibly dispossess them by claiming that the land in question was government land.

The learned Single Judge did not issue notice to the respondents and dismissed the writ petition simply by relying on the oral statement made by the learned Assistant Government Pleader that the petitioners are not in possession of the land and that in the revenue records, the subject land is described as Koneru (water tank) and by observing that the Adangals appear to have been tampered.

We have heard Sri Meherchand Nori and the learned Government Pleader for Revenue and perused the record.

In our opinion, the order under challenge is liable to be set aside because the finding recorded by the learned Single Judge about the possible tampering of the Adangal is based on no evidence. The question whether the copies of Adangals annexed to the writ affidavit are genuine and whether the appellants were in possession on the date of filing the writ petition could not have been decided by the learned Single Judge without requiring the respondents to file counter to the affidavit of appellant No.1. The learned Single Judge could not have relied on the oral statement made by the learned Assistant Government Pleader and drawn dubious inference against the appellants.

For the reasons stated above, the appeal is allowed. The order of the learned Single Judge is set aside with the direction that the writ petition be listed before the Single Bench on 29-10-2007 for fresh adjudication of the issue raised by the appellants. The respondents are given liberty to file counter affidavit within two weeks.

While disposing of the appeal in the manner indicated above, we direct that status quo, as it is obtaining today, shall be maintained by both the parties.

G.S. SINGHVI, C.J.

4th October, 2007

C.V. NAGARJUNA REDDY, J.

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